IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Revn. No. 1052 of 2006

DATE OF DECISION : 10.01.2007

Paramvir Singh

.... PETITIONER

Versus

State of Punjab

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. S.S. Narula, Advocate,
for the petitioner.

Mr. N.S. Gill, AAG, Punjab.

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Petitioner Paramvir Singh has filed this criminal revision against the order dated 9.5.2006, passed by Additional Sessions Judge, Rupnagar, whereby charge under Section 29 of the Arms Act has been framed against him.

2. I have heard counsel for the parties and gone through the contents of the petition as well as the impugned order.

3. Two different challans were filed against the petitioner, one under Sections 302, 420, 465 IPC and the other under Section 25 of the Arms Act. Challan under Section 25 of the Arms Act filed was an off shoot of the main case. Both the challans were ordered to be consolidated. In the main case, charges were framed against accused Himmat Singh and Neki Nalwa under Sections 302, 120-B, 465, 468 IPC and against the petitioner under Section 29 of the Arms Act. The petitioner was possessing a pistol and 20 cartridges of .32 bore, but only 12 cartridges were recovered from his possession and two cartridges are stated to have been used by him, but he could not explain the deficiency of 6 cartridges of .32 bore. As per the FSL report, one 7.65 mm K.F cartridge was used in the pistol by main

accused Himmat Singh and it has come during investigation that accused Himmat Singh had taken six cartridges from the petitioner, out of which he used one in the commission of crime in the main case and five were used in a marriage palace at Dera Bassi. The District Magistrate has also granted sanction to prosecute the petitioner for the offence under the Arms Act. On the basis of this evidence, charge under Section 29 of the Arms Act has been framed against the petitioner.

4. At the time of framing of charge, a contention was raised on behalf of the petitioner that no link evidence against the petitioner has been collected during investigation and statement of the co-accused is inadmissible, therefore, charge cannot be framed. This contention was rejected by the trial court while observing that in ***R. Janakiranian*** v. ***State of Tamil Nadu,*** 2006 (1) RCR 432, the Supreme Court has observed that confession of accused can be used against co accused in circumstances of a case as a corroborative piece of evidence and in ***Bhavsing D. Rathod*** v. ***Asstt. Collector,*** 2005 (3) RCR (Criminal) 359, it was held by the Kerala High Court that under Section 30 of the Evidence Act confession of co accused can be considered if the confession is of inculpatory nature,maker of confession and co accused should necessarily have been tried jointly for the same offence and that confession made by one accused should affect him as well as the co-accused. It was observed that these three conditions stand fulfilled in the present case also.

5. It is well settled that at the time of framing of charge, only prima facie case is to be seen. At this stage, it is not to be seen whether the evidence collected by the investigating agency is sufficient for conviction of the accused or not. In my opinion, the aforesaid material collected during the investigation is sufficient to frame charge against the petitioner. Thus, no interference in the impugned order by this court in exercise of the revisional jurisdiction is required.

6. In the last, counsel for the petitioner contends that the trial court has committed procedural irregularity while ordering consolidation of

two challans. In view of Section 220 (4) of the Code of Criminal Procedure, the accused of several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of such offence may be charged with, and tried at one trial for the offence constituted by such acts. Therefore, in the instant case, accused in both the challans were challaned together and both the challans were ordered to be consolidated, so that they can be tried in one trial. There is no illegality in framing the charge and trying both the challans together.

7. Dismissed.

January 10, 2007 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**